

## § 24.101

24.309 Payment of award.

AUTHORITY: 5 U.S.C. 504(c)(1).

SOURCE: Order No. 975-82, 47 FR 15776, Apr. 13, 1982, unless otherwise noted.

### Subpart A—General Provisions

#### § 24.101 Purpose of these rules.

These rules are adopted by the Department of Justice pursuant to section 504 of title 5, U.S. Code, as amended by section 203(a)(1) of the Equal Access to Justice Act, Public Law No. 96-481. Under the Act, an eligible party may receive an award for attorney fees and other expenses when it prevails over the Department in an adversary adjudication under 5 U.S.C. 554 before the Department, unless the Department's position as a party to the proceeding was substantially justified or special circumstances make an award unjust. The purpose of these rules is to establish procedures for the submission and consideration of applications for awards against the Department.

#### § 24.102 Definitions.

As used in this part:

(a) *The Act* means section 504 of title 5, U.S. Code, as amended by section 203(a)(1) of the Equal Access to Justice Act, Public Law No. 96-481.

(b) *Adversary adjudication* means an adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or reviewing a license.

(c) *Adjudicative officer* means the official, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication.

(d) *Department* refers to the relevant departmental component which is conducting the adversary adjudication (e.g., Drug Enforcement Administration or Office of Justice Assistance, Research, and Statistics).

(e) *Proceeding* means an adversary adjudication as defined in § 24.102(b) above.

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#### § 24.103 Proceedings covered.

(a) These rules apply to adversary adjudications required by statute to be conducted by the Department under 5 U.S.C. 554. Specifically, the proceedings conducted by the Department to which these rules apply are:

(1) Hearings conducted by the Drug Enforcement Administration (DEA) in connection with suspension or revocation of registration of manufacturers, distributors, and dispensers of controlled substances under 21 U.S.C. 824(c) and 21 CFR 1301.51; suspension or revocation of import and export registrations pursuant to 21 U.S.C. 958 and 21 CFR 1311.51;

(2) Hearings conducted by DEA in connection with the scheduling of drugs pursuant to 21 U.S.C. 811(a) and 21 CFR 1308.41;

(3) Handicap discrimination hearings conducted by the Department under 29 U.S.C. 794a(a) and 28 CFR 42.109(d);

(4) Title VI civil rights hearings conducted by the Department under 42 U.S.C. 2000d-1 and 28 CFR 42.109(d);

(5) Grant denial and grant termination hearings conducted by the Office of Justice Assistance, Research, and Statistics (OJARS), the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP), or the Law Enforcement Assistance Administration (LEAA) under 42 U.S.C. 3783 and 28 CFR part 18; and

(6) Civil rights hearings conducted by OJARS under 42 U.S.C. 3789d and 28 CFR 42.214-15.

(b) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

#### § 24.104 Applicability to Department of Justice proceedings.

The Act applies to an adversary adjudication pending before the Department at any time between October 1, 1981 and September 30, 1984. This includes proceedings begun before October 1, 1981 if final Department action has not been taken before that date, and proceedings pending on September 30, 1984.